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SEP 28 2007

*In re* Application of:

Spiel

Application No.: 10/828,988

Filed: April 21, 2004

Title: COMBINATION PLASTIC SPIRAL  
FORMING MACHINE AND SEMI-  
AUTOMATIC PLASTIC SPIRAL BINDING  
MACHINE

DECISION ON PROTEST UNDER  
37 C.F.R. § 1.291

This is in response to the protest under 37 C.F.R. § 1.291 filed on June 23, 2005

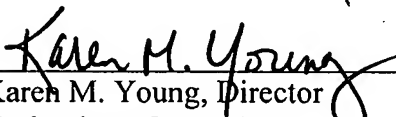
37 C.F.R. § 1.291(b) states:

The protest will be entered into the record of the application if, in addition to complying with paragraph (c) of this section, the protest has been served upon the applicant in accordance with § 1.248, or filed with the Office in duplicate in the event service is not possible; and, except for paragraph (b)(1) of this section, the protest was filed prior to the date the application was published under § 1.211, or a notice of allowance under § 1.311 was mailed, whichever occurs first:

- (1) If a protest is accompanied by the written consent of the applicant, the protest will be considered if the protest is matched with the application in time to permit review during prosecution.
- (2) A statement must accompany a protest that it is the first protest submitted in the application by the real party in interest who is submitting the protest; or the protest must comply with paragraph (c)(5) of this section. This section does not apply to the first protest filed in an application.

The protest was not submitted before the application was published on October 7, 2004 as publication number 2004/0197163. The protest was not filed until June 23, 2005, and thus the protest is untimely. Accordingly, the protest papers will not be entered into the application file and will be discarded per 37 C.F.R. § 1.291(g).

Any inquiry regarding this decision should be directed to Colleen P. Cooke, Special Program Examiner, at (571) 272-1170.

  
Karen M. Young, Director  
Technology Center 3700